

DECISION

12385 PL-1
MPL Vickers

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-194421.3**DATE:** December 27, 1979**MATTER OF:** | Century Metal Parts Corporation

[Protest of Army Contract Award] D. 56
DIGEST:

1. Protest that prior solicitation should be canceled and items added to protester's current contract because of lower prices and resultant savings to Government is denied as contracting officer has determined prior prices to be reasonable and, therefore, DAR § 2-404.1(b)(vi), permitting cancellation for unreasonable prices, is inapplicable.
2. Contention that there would be less risk of delivery delay by purchasing items under protester's (established producer) contract rather than from proposed awardee (new producer) is denied since contracting officer has determined awardee to be responsible bidder.

Century Metal Parts Corporation (Century) has protested the proposed award of a contract to Howe Machine and Tool Corporation (Howe) under invitation for bids (IFB) No. DAAB07-79-B-2832 issued by the U.S. Army Communications and Electronics Materiel Readiness Command. D. 57 D1579

Howe was the low bidder under IFB No. -2832, which was opened on January 22, 1979, for a quantity of antenna elements. No award has been made under the solicitation because of various protests and court actions filed by Century, of which this protest is the final action still pending.

The Army, in July 1979, issued IFB No. DAAB07-79-B-2460 for additional quantities of the antenna element. Century was the low bidder on this IFB and contends that because its price on IFB -2460 is lower than

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Howe's price on IFB -2832, the Army should cancel the prior solicitation and include those items under its current award. Such action would result in a 5-percent savings to the Government.

Before deciding the merits of the protest, the Army's contention that the protest was untimely filed must be answered. IFB -2460 was opened on August 23, 1979, and Century's protest was filed with our Office on September 10, 1979. The Army argues that Century knew of the basis for its protest at bid opening and, therefore, the protest was untimely filed.

Section 20.2(b)(2) of our Bid Protest Procedures (4 C.F.R. part 20 (1979)) requires protests be filed within 10 working days after the basis of protest was known or should have been known. However, Century argues that it was not at bid opening and notwithstanding a phone call to the agency the afternoon of bid opening, did not learn the results of the bidding until 2 days later. Therefore, Century's protest was filed on the 10th working day following its knowledge of the basis for its protest and is timely.

Regarding Century's contention that the prior solicitation should be canceled, Century argues that its lower bid on the second solicitation shows that Howe's price in January 1979 was unreasonable and that under Defense Acquisition Regulation (DAR) § 2-404.1(vi), the cancellation would be justified.

The contracting officer has advised our Office that he feels Howe's price is reasonable in view of the adequate price competition under IFB No. -2832 and the past procurement history of the item.

The determination of price reasonableness is a matter within the discretion of the contracting officer which our Office will not question absent a showing of unreasonableness, which has not been made here. North American Signal Company--Reconsideration, B-190972, August 4, 1978, 78-2 CPD 87. Therefore, since the contracting officer has determined the price of Howe to be reasonable, DAR § 2-404.1(b)(vi), which permits cancellation where prices are unreasonable, is not for application.

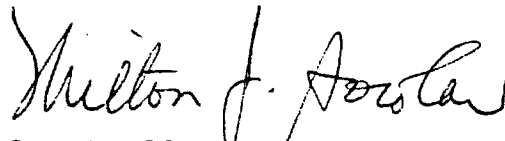
We believe DAR § 2-404.1(a) is the controlling regulation in the instant factual situation. The regulation reads, in pertinent part, as follows:

"* * * As a general rule, after opening, an invitation for bids should not be canceled and readvertised due solely to increased requirements for the items being procured; award should be made on the initial invitation for bids and the additional quantity required should be treated as a new procurement."

The above action is what the Army has done here and as our Office has stated numerous times in the past, the maintenance of the integrity of the competitive bidding system is more in the public interest than the pecuniary advantage to be gained in a particular case. A. D. Roe Company, Inc., 54 Comp. Gen. 271, 275 (1974), 74-2 CPD 194.

Century also contends that there would be less risk of delivery delay if the earlier quantity were purchased from Century, an established producer of the item, rather than Howe, which has never manufactured the item. The contracting officer has found Howe to be a responsible bidder based on a preaward survey which noted a satisfactory rating for its ability to meet the required delivery schedule. Therefore, this basis of protest is denied.

The protest is denied.



For The Comptroller General
of the United States